

**U.S. CUSTOMS SERVICE
OFFICE OF STRATEGIC TRADE
REGULATORY AUDIT DIVISION**

**IMPORTER OF RECORD VERSUS
ULTIMATE CONSIGNEE ENTRIES**

INTRODUCTION

Owners, importers, consignees, importers of record, entry filers, and/or other parties who actually engage in or knowingly cause importation, transportation, or storage of merchandise carried or held under bond into or within the United States are responsible for maintaining and rendering for inspection all records normally kept in the ordinary course of business pertaining to that activity. Also included are agents of the above parties or persons whose activities require the filing of a declaration, entry, or both, as well as filers of drawback claims. The importer of record is responsible for exercising reasonable care and is accountable for the declarations made at entry. The purpose of this document is to examine the relationships and obligations of the importer of record (IOR) and the ultimate consignee (UC) relative to the compliance assessment process.

BACKGROUND

The objective of a compliance assessment (CA) is to determine the compliance of a company or "account," whether the company is acting as IOR or consignee. In 80 to 90 percent of ACS transactions, the IOR and consignee numbers for an account are the same. To address concerns raised by the trade, when the IOR and UC on an entry are different parties, Customs has agreed to evaluate the circumstances of individual transactions and the role of an audited company (auditee) in those transactions. Customs acknowledges that in certain situations when the auditee is the ultimate consignee and not the importer of record the sampled transaction should be excluded from the CA review.

PROCEDURES

The procedures below apply to approximately 10 to 20 percent of the transactions in ACS where an auditee is listed as the UC, but is not the IOR.

The auditee will be asked to provide whatever records the company has which pertain to the import activity. Examples of the types of records required include, but are not limited to, the following:

- Specification sheets (product samples)
- Purchase orders

- Payment records (wire transfers, checks, etc.)
- Freight bills
- Inventory receipts
- Invoices
- Packing lists
- Manufacturers' affidavit
- Correspondence
- Signed sales contracts

When there is no evidence from the records that the auditee provided any information to any other party relating to the admissibility, classification, value, and rate of duty on a particular importation, the item will be removed from the compliance assessment sample. As applicable, the CAT will review additional transactions to replace any items that are removed from the sample.

When there is indication that the auditee did provide information relating to the admissibility, classification, value, and rate of duty for a particular importation, the item will remain in the sample and will be reviewed by the CAT. Accordingly, the CAT will compute a compliance rate for the overall import activity of the auditee, which will exclude those transactions for which the auditee played no role.

For purposes of determining whether a specific sampled transaction should be excluded from the review, the totality of the circumstances relating to the transaction will be considered by the CAT. The CAT will consider the following factors and exclude the sampled transaction from review when the evidence reflects that the company did not:

- Control the terms and conditions of sale and negotiate a price with foreign company;
- Send a purchase order to a foreign company;
- Provide assists (i.e. technical data, molds, equipment, product assistance, material, components, etc.) with knowledge that they will be used in the manufacture or production of imported merchandise;
- Provide specifications for imported merchandise directly to a foreign manufacturer;

- Pay a foreign company; or
- Cause the importation as provided by any other evidence.